

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 1:11-CR-360-SS
	§	ECF
ERNEST LOPEZ (5)	§	

UNITED STATES' FACTUAL BASIS AT REARRAIGNMENT

The United States of America files the government's factual summary for purposes of the Defendant's arraignment and guilty plea.

If this case were called to trial on the merits, the government is prepared to prove the following beyond a reasonable doubt:

Between August 1, 2010, and July 14, 2011, Ernest Lopez conspired with Ruben Flores, Michael Morin, Patrick Cruz, Daniel Gonzales, Nickolas Estrada, Edward Zuniga, Michael Martinez, Domingo Mendieta, Arnulfo Perez-Torres, Juan Manuel Pierce, David Romo, Luis Salazar, David Samarripa, David Torres, Jose Placencia, and others to possess with intent to distribute one kilogram or more of heroin. Lopez was a member of the drug trafficking organization headed by Texas Mexican Mafia (TMM) Captain Ruben Flores.

During the course of the conspiracy, FBI officers were involved in wire intercepts targeting various members of the Flores drug trafficking organization. Lopez was intercepted discussing the distribution of heroin with different members of the conspiracy. Specifically, on May 17, 2011, at approximately 11:20 a.m., Morin and Flores were intercepted discussing Lopez. Morin stated, "We got two left, unless Neto (Ernest Lopez) comes on with it. Neto is also moving stuff real good...he just wants halves and we don't got them." Flores said, "Yes, I'm

hoping we get some soon.” Morin continued, “Chachi (Luis Salazar), he’s been scoring real good from us, rather not step on his toes. I’d rather just tell him (referring to Daniel Gonzales) [to] work with Chachi...I’m just going to tell him...’tell Chachi to put you to work, to give you that stuff, so you can hustle it...he knows a lot of tecatos.’” This conversation demonstrated that Lopez was selling heroin for the TMM (“moving stuff real good”).

On July 4, 2011, at 10:42 a.m., Morin called and spoke with Lopez. Lopez stated, "I'm here with the money...did the other stuff get here or not?" Morin said it had arrived, and Lopez asked, "How is it...how is the stuff?" Morin said, "Better, it's better." Lopez said, "Bring me one...what time are you coming?" Morin responded, "Later, I've got to go to Del Valle first." They agreed to talk later. At 4:44 p.m., Morin spoke to Lopez in an intercepted call and asked, "Are you at the house bro?" Lopez said he was, and Morin responded he would “be right there.” At 4:50 p.m., Morin called and told Lopez, "I'm here outside bro." Later that night in an intercepted and recorded call, Morin told Flores, "I picked up from Neto (Lopez), but he's short 100, he's almost there...I told him he can't pick up until he paid everything, he'll have to wait another day or two for them." Flores said, "That's fine." Morin said, "Neto paid 11, he only owes 100, that's cool, but he didn't buy anything. I told him just to pay for what he owes and that will be all.” Affiant believes that Morin did not drop off any drugs at Lopez’s residence because Lopez had failed to pay the full amount owed to the TMM for heroin that had been previously given to him. Lopez did pay a large portion of his debt (\$1,100) to Morin on this occasion.

During the execution of the search and arrest warrants in this case, officers seized approximately one kilogram of heroin from the home of Ruben Flores. This heroin was to be distributed among Lopez and other members of the conspiracy so that they could sell it to

different customers. Agents seized heroin packaged in balloons from Lopez's residence during the search of his house.

Based on his participation in the drug trafficking organization, Ernest Lopez admits that he is responsible for possessing with intent to distribute at least one kilogram of heroin as alleged in the indictment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2011, a true and correct copy of this instrument was filed with the District Clerk via the WDTX CM/ECF system, and the Defendant's attorney of record, Dexter Gilford, will have access to it.

/s Daniel D. Guess
DANIEL D. GUESS
Assistant United States Attorney